

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

EXAMINATION MANAGEMENT
SERIVCES, INC.,

Debtor.

CASE NO. 20-32367-SGJ-7

MOTION TO DISMISS

Petitioning Creditors JTD Services, Inc., Lynn Blank Exam Services, Bistate Professional Services, Inc., and Five Eight Eight Two, Inc. (“Petitioning Creditors”) file this Motion to Dismiss (“Motion”) and respectfully state as follows:

1. On September 14, 2020, Petitioning Creditors filed their Involuntary Petition Against a Non-Individual against Examination Management Services, Inc. (“EMSI” or “Alleged Debtor”), initiating Case No. 20-32367-sgj7 (“Involuntary Bankruptcy Case”).

2. On September 18, 2020, the Court entered its Order to Show Cause Whether Case Should be Dismissed for Failure of Corporate Petitioning Creditors to Appear in Case Through Counsel (Dkt. No. 2) (“Show Cause Order”). The Show Cause Order required Petitioning Creditors to retain counsel and for such counsel to file a Notice of Appearance in this case on or before September 28, 2020

3. On September 25, 2020, the undersigned firm filed its Notice of Appearance on behalf of Petitioning Creditors (Dkt. No. 4).

4. On October 6, 2020, prior to the issuance of a summons in the Involuntary Bankruptcy Case, EMSI filed its own voluntary Chapter 7 petition, initiating Case No. 20-32548-hdh7 (“Voluntary Bankruptcy Case”). Daniel J. Sherman has been appointed as the Chapter 7

Trustee in the Voluntary Bankruptcy Case. *See Exhibit A*, which is a true and correct copy of the Notice of Chapter 7 Bankruptcy Case entered in the Voluntary Bankruptcy Case and incorporated by reference herein for all relevant purposes.

5. The Alleged Debtor has not made an appearance in the Involuntary Bankruptcy Case. No motions or other requests are pending in the Involuntary Bankruptcy Case, and the Court has not entered an order for relief. The Petitioning Creditors now wish to pursue their claims in the Voluntary Bankruptcy Case.

6. Based on the foregoing, the Petitioning Creditors request that the Court dismiss the Involuntary Bankruptcy Case and grant the Petitioning Creditors such other and further relief to which they may be justly entitled.

Date: October 23, 2020

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ATTORNEYS FOR
PETITIONING CREDITORS

Certificate of Conference

I hereby certify that I have conferred multiple times with Mr. Sherman, the Chapter 7 Trustee in the Voluntary Bankruptcy Case, and he is unopposed to the requested relief.

/s/ Nathan M. Nichols
Nathan M. Nichols

Certificate of Service

I hereby certify that the foregoing document was served electronically via ECF on the U.S. Trustee and all other parties entitled to receive such ECF notification, and on Daniel J. Sherman at djsherman@syllp.com, on October 23, 2020.

/s/ Nathan M. Nichols
Nathan M. Nichols